# CONSTITUTION

# OF THE

# NATIVE VILLAGE OF NANWALEK

## PREAMBLE

We, the Native people having common bonds of association and residence in Nanwalek, Alaska, and being citizens of the United States, in order to implement our inherent right to self-government and self-determination and to promote our political, social, cultural, and economic progress do hereby ordain and establish this Constitution under authority of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended.

## ARTICLE I - NAME

The name of this organization shall be the Native Village of Nanwalek, formerly known as the Native Village of English Bay.

## ARTICLE II - TERRITORY

The jurisdiction of the Native Village of Nanwalek shall extend to all lands and waters constituting Indian country of the Native Village of Nanwalek as defined by Federal law, including, but not limited to, all lands and waters customarily and traditionally used by the Nanwalek people including within such "traditional lands and waters" all lands withdrawn for selection by the Native Village of English Bay Corporation under the Alaska Native Claims Settlement Act (P.L. 92-20); all lands withdrawn for the Federal townsite of English Bay Village (44 Stat. 629), as described in U.S. Survey 4901 (map attached); and all fee lands and allotments within the traditional lands of Nanwalek, notwithstanding the issuance of any patent or unrestricted fee title to any such lands.

## ARTICLE III - MEMBERSHIP

Section 1. Membership. Membership in the Native Village of Nanwalek shall consist of the following, Provided, That such persons are not an enrolled member of any other Indian tribe whether federally recognized or not:

(a) All persons of Alaska Native descent whose names appear on the base membership roll of the Native Village of Nanwalek approved by the Juneau Area Director on April 19, 1993; and

(b) All lineal descendants of persons listed in Section 1(a) above.

The Council may correct the basic membership roll within two (2) years from the effective date of this Constitution.

Section 2. Qualifications for Future Membership. The Council shall have the power to adopt any Alaska Native who possesses at least one quarter (1/4) degree Alaska Native blood and who has physically resided in the Village of Nanwalek, Alaska, for a period of at least five (5) years immediately prior to the date of his/her application for membership, Provided, That such person is not enrolled as a member of any other Indian tribe whether federally recognized or not. All children born to any member who was adopted into the Village shall automatically be enrolled as a member of the Village. regardless of residence?

Section 3. Loss of Membership. Any member who is continuously absent from the Village of Nanwalek for a period of at least three (3) years shall lose their right to vote or hold office but will retain their membership. Members who have lost the right to vote or hold office due to absence from the Village shall regain these rights after they have again taken up residency in the Village with the intent to remain for three (3) years following their absence. The Council, or Village court if one is established, shall have the authority to make all determinations with respect to loss of membership, which determinations shall provide the effected member with due process of law in accordance with the Indian Civil Rights Act and all other applicable laws.

Section 4. Regulation of Membership. The Council shall have the power to enact ordinances and resolutions, not inconsistent with this Constitution, prescribing rules and regulations governing membership, including application and appeal procedures, loss of membership, adoption of new members, establishing procedures for processing membership matters including but not limited to application and appeal procedures. The Council shall adopt the appropriate enrollment ordinance within six (6) months of the adoption of this Constitution.

## ARTICLE IV - GOVERNING BODY

Section 1. Name. The governing body of the Native Village of Nanwalek shall be the Nanwalek Council, hereinafter referred to as the Council.

Section 2. Composition. The Council shall consist of seven (7) members who shall be elected by a majority vote of the qualified members of the Village.

Section 3. Officers. The Council shall include a First Chief, Second Chief, Secretary/Treasurer and four (4) Council members.

## ARTICLE V - ELECTIONS

Section 1. Voter Qualifications. Any duly enrolled member of the Native Village of Nanwalek eighteen (18) years of age or older and who has resided for at least three (3) years in the Village prior to an election shall be entitled to vote in that Village election.

Section 2. Elections. The first regular election of officials under this Constitution shall be held within sixty (60) days of the effective date of this Constitution at which time a system of staggered terms shall be established. At the first regular election under this Constitution, the First Chief, the Secretary/Treasurer, and two (2) Council members shall be elected to hold office for a term of five years. The Second Chief and the remaining two Council members shall be elected to hold office for a term of three (3) years. Thereafter, all terms of office shall be for five (5) years. Members shall hold office until their successors are duly elected and seated.

Section 3. Nominations The time, place, and manner of nominations shall be specified in the election ordinance adopted pursuant to Section 4 of this Article.

Section 4. Election Ordinance. An election ordinance, providing for elections consistent with this Constitution, shall be adopted by the Council within six (6) months following the effective date of this Constitution which shall set forth the procedures to be followed in conducting each of the various types of elections called for in this Constitution. The ordinance shall include provisions for conducting all Village elections by secret balloting, qualifications of candidates, maintenance of a current list of eligible voters, certification of election, assumption of office and the settling of disputes. The ordinance shall spell out the procedure and format to be used whenever it is necessary to submit petitions for any purpose to the Council and set forth a procedure for determining the validity of such petitions.

Section 5. Election Board. There shall be an election board appointed by the Council whose duties shall be to supervise, administer, and conduct all Village elections. The election board shall certify the election of Village officials within five (5) days after the election. No member of the election board shall at the same time be a member of the Council or a candidate for a position on the Council.

## ARTICLE VI - REMOVAL, RECALL, AND FORFEITURE

Section 1. Removal. Any Council member or other official found guilty by the Council of behavior involving gross misconduct in office or neglect of duty shall be removed from office if at least four (4) members of the Council vote in favor of such removal. Voting shall be by secret ballot and the First Chief shall be entitled to vote. If the accused is a member of the Council, the accused shall not have the right to cast a ballot. Before any vote for removal is taken, the person subject to removal shall be given a written statement of the charges against him at least seven (7) days before the meeting of the Council at which he is to appear and he shall be given an opportunity to answer any and all charges at the designated Council meeting. If the person subject to removal fails to appear before the Council, the Council shall proceed with the vote as scheduled. The decision of the Council shall be final. No member of the Council shall preside over the meeting at which his removal is being considered.

Section 2. Recall. Village members shall have the power to recall any member of the Council. The recall process shall be initiated by filing with the Council a valid petition asking for such recall, signed by at least thirty percent (30%) of the eligible voters, and setting forth the reasons for the petition. Within thirty (30) days after receipt of a valid recall petition, the Council shall call and conduct an election to consider the recall of the official named in the petition. The decision of the eligible voters of the Village shall be final. If recalled, the Council member shall vacate his/her office immediately.

Section 3. Forfeiture. If any member of the Council shall be found guilty of a crime of moral turpitude in any Court, shall die, resign, or is absent from three (3) successive meetings of the Council without being excused by the Council, he shall automatically forfeit his office.

## ARTICLE VII - VACANCIES

Section 1. Any office which has been vacated, whether it be by removal, recall, or forfeiture, shall be filled by appointment by the remaining members of the Council regardless of whether there is a quorum present at its next meeting and such replacement shall serve until the next general membership meeting at which time the members shall elect a replacement to fill the unexpired term of office.

## ARTICLE VIII - POWERS

Section 1. General Powers. Except as specifically limited by this Constitution, the powers of the Village shall be exercised by the Council and shall include all the inherent powers of a federally recognized tribal government, including but not limited to those specified in this Article, which do not violate Federal law. The Council may authorize an officer to act in specific circumstances.

Section 2. Internal Procedures. Consistent with this Constitution, the Council may enact rules to govern its internal procedures and organization and to further define the duties of Village officers by ordinance.

Section 3. Other Council Powers. In addition to all powers vested in the Village or the Council by existing law, and this Constitution, the Village, acting through the Council, shall have the following powers:

(a) To consult, negotiate, contract, or conclude agreements with Federal, State, and local governments on activities which may affect the Native Village of Nanwalek.

(b) To employ legal counsel, the choice of counsel, and fixing of fees to be subject to the approval of the Secretary of the Interior or his authorized representative so long as such approval is required by Federal law.

(c) To receive advice from and make recommendations to the Secretary of the Interior with regard to all appropriation estimates for all projects which are for the benefit of Village members of the Native Village of Nanwalek prior to the submission of such estimates to the Office of Management and Budget and to Congress.

(d) To acquire property and to accept gifts.

(e) To prevent the sale, disposition, lease or encumbrance of Village lands, interests in lands, or other Village assets without the consent of the Village.

(f) To protect members' rights in personal property.

(g) To join and/or charter housing authorities.

(h) To charter enterprises, corporations, and associations.

(i) To prescribe rules and regulations governing future membership, loss of membership, and adoption of members.

(j) To promote the peace, safety, health, and general welfare of the members of the Village.

(k) To administer the Village's assets and manage all economic affairs and enterprises of the Village.

(1) To enact ordinances and regulations consistent with this constitution for the conduct and administration of all tribal elections, the appointment of an election board and the regulation of its duties.

(m) To provide for the maintenance of law and order and the administration of justice, including the establishment of appropriate Village courts or other judicial bodies.

(n) To levy and collect taxes, fees, and assessments for the Village's purposes.

(o) To encourage and foster the arts, crafts, traditions, customs, language and culture of the Village.

(p) To protect and preserve the wildlife and natural resources within the area under the jurisdiction of the Village or upon which its members rely for subsistence.

(q) To regulate child custody and adoptions pursuant to the Indian Child Welfare Act and other domestic relations among members.

(r) To authorize or direct subordinate boards, committees or officials to administer the affairs of the Village and to carry out the directives of the Council.

(s) To zone, exercise the power of eminent domain and otherwise regulate all land use within those areas under the jurisdiction of the Village.

(t) To regulate inheritance among members whether by intestacy or otherwise.

(u) To administer any funds within the control of the Village.

(v) To engage in economic development enterprises for the benefit of the Village or its members.

(w) To enact ordinances, procedures and regulations necessary to give effect to any provision of this Constitution and to exercise any power not prohibited by Federal law.

## ARTICLE IX - POWERS RESERVED TO MEMBERSHIP

Section 1. The following powers are specifically reserved to the entire Village membership acting through a general membership meeting or a properly called election:

(a) No lands or interests in lands owned by the Village may be sold, encumbered or disposed of without the favorable vote of at least a majority of the eligible voters of the entire Village membership.

(b) General Membership [redacted]

## ARTICLE X - SOVEREIGN IMMUNITY OF NANWALEK

Section 1. Nothing in this Constitution shall be deemed or construed to be a waiver of the sovereign immunity of the Native Village of Nanwalek, which may only be waived by express resolution of the Village Council, after receiving an affirmative vote of the majority of the entire adult membership, and only to the extent specified in such resolution and permitted by this Constitution and Federal law, Provided, However, That the Village Council shall have the authority to waive the sovereign immunity of the Native Village of Nanwalek solely for the purposes of satisfying the conditions or requirements of Federal or State grants or contracts. Waivers of sovereign immunity shall not be general but must be specific and limited as to duration, grantee, transaction, property or funds, if any, of the Village subject to the waiver, as well as specific to the court having jurisdiction and applicable law.

Waiver of sovereign immunity of the Village shall not be deemed a general consent to the levy of any encumbrance tax or other judgment, lien or attachment upon property of the Village other than property specifically pledged, assigned or otherwise explicitly subject to levy in the waiver resolution.

## ARTICLE XI - POPULAR PARTICIPATION IN GOVERNMENT

Section 1. Initiative and Referendum. The eligible voters of the Village shall have the right to propose and rescind legislative ordinances and resolutions by secret ballot. Upon receipt of a valid petition signed by at least thirty percent (30%) of the eligible voters, the Council shall call an election to be conducted by the election board no later than thirty (30) days after receipt of the petition. An affirmative vote by at least a majority of the eligible voters shall be required to determine the issues or questions submitted to the voters.

Section 2. The decision of the voters in both initiative and referendum elections shall be binding on the Council and the Village and shall remain in full force until amended or rescinded by subsequent action of the voters or expires by its own terms.

## ARTICLE XII - RIGHTS OF MEMBERS

Section 1. All members of the Village shall enjoy without hinderance equal rights of life, liberty, and the pursuit of happiness.

Section 2. This Constitution shall not in any way alter, abridge, or otherwise jeopardize the rights and privileges of the members of the Village as citizens of the State of Alaska or the United States.

Section 3. Village members shall have the right to review all Council records including financial records at any reasonable time in accordance with procedures established by the Council.

Section 4. The Native Village of Nanwalek in exercising its powers of self-government shall not deny to any person within its jurisdiction freedom of speech, press, or religion, or the right to assemble peacefully. The tribal government shall not deny to any person the equal protection of tribal laws or deprive any person of liberty or property without due process of law. The Village shall provide to all persons within its jurisdiction the rights guaranteed by the Indian Civil Rights Act of 1968.

## ARTICLE XIII - DUTIES OF OFFICERS

Section 1. Newly elected officers shall assume their respective office and duties immediately upon being elected and seated.

Section 2. The First Chief shall preside at all meetings of the Village and of the Council and shall execute on behalf of the Village all contracts, leases or other documents approved by the Council. He shall vote in all cases except on the matter of his removal. He shall have general supervision of all other officers, employees, and committees of the Village and see that their duties are properly performed. When the Council is not in session, the First Chief shall be the official representative of the Village.

Section 3. The Second Chief shall assist the First Chief when called upon to do so. In the absence of the First Chief, the Second Chief shall be the official representative of the Village and shall preside and when so presiding shall have all the rights, privileges, duties, and responsibilities of the First Chief.

Section 4. The Secretary/Treasurer shall keep the minutes of all meetings and shall attest to the enactment of all resolutions and ordinances. The Secretary/Treasurer shall issue notices of all meetings and elections and conduct all general correspondence as directed by the Council. The Secretary/Treasurer shall also carry out the financial directives of the Council, receive all local monies and keep an accurate account of the receipts and disbursements. Funds shall be deposited in the Native Village of Nanwalek's accounts in a local bank selected by the Council where depositor's funds are insured by the Federal Deposit Insurance Corporation. All disbursements shall be made by check in accordance with resolutions of the Council. The Council may direct the Secretary/Treasurer to file an annual bond, satisfactory to the Council, to protect Village accounts. The Secretary/Treasurer shall give a financial report to the Council once a month, and all financial reports shall be available for inspection by any member of the Village. At the expiration of his term of office, the Secretary/Treasurer shall turn over all records and papers in his possession to his successor or to the Council.

## ARTICLE XIV - MEETINGS

Section 1. Regular meetings of the Council shall be held monthly, the time, place, and date to be designated by the Council. Special meetings of the Council may be called by the First Chief and shall be called by him upon receipt of a petition signed by at least three (3) members of the Council and when so called, the Council shall have the power to transact business as in regular meetings, provided that a quorum is present.

Section 2. A quorum of the Council shall consist of three (3) members of the Council except as otherwise provided in this Constitution. No business shall be transacted unless a quorum is present.

Section 3. All meetings of the Council shall be open to the general membership of the Native Village of Nanwalek; Provided, However, That the Council may recess at its discretion to discuss any matter in a closed or executive session if the general subject matter to be discussed is expressed in the motion calling for such closed or executive session and no final or official action is taken thereon in the closed or executive session.

Section 4. All final decisions of the Council on matters of general or permanent interest to members shall be embodied in ordinances. The ordinances shall be collected and made available to Village members and others affected upon reasonable request.

Section 5. All final decisions of the Council on matters of temporary interest shall be embodied in resolutions. Resolutions shall be collected and made available to Village members and others affected upon reasonable request.

Section 6. Regular meetings of the general membership of the Native Village of Nanwalek shall be held at least once annually. The date, time, and place of such meetings shall be set by the First Chief and shall be called by him upon receipt of a petition signed by at least thirty percent (30%) of the Village members.

Section 7. A quorum of the general membership shall consist of twenty five percent (25%) of the voting members except as otherwise provided in this Constitution. No business shall be conducted unless a quorum is present.

## ARTICLE XV - SEVERABILITY

If any provision of this Constitution shall, in the future, be declared invalid by a court of competent jurisdiction, the invalid provision shall be severed and the remaining provisions shall continue in full force and effect.

## ARTICLE XVI - AMENDMENTS

Section 1. This Constitution may be amended by a majority vote of the qualified voters of the Native Village of Nanwalek voting in an election called for that purpose by the Secretary of the Interior or his authorized representative, Provided, That at least thirty percent (30%) of those entitled to vote shall vote in such election. No amendment shall become effective until approved by the Secretary of the Interior or his authorized representative. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment at the request of the Council or upon receipt of a petition signed by at least thirty (30) percent of the eligible voters of the Village.

## ARTICLE XVII - ADOPTION

This Constitution, when adopted by a majority vote of the qualified voters of the Native Village of Nanwalek voting at an election called for that purpose by the Secretary of the Interior or his authorized representative in which at least thirty percent (30%) of those entitled to vote shall vote, shall be submitted to the Secretary of the Interior for his approval, and shall be effective from the date of his approval.

## CERTIFICATE OF RESULTS OF ELECTION

Pursuant to a Secretarial election authorized by the Deputy Commissioner of Indian Affairs on January 10, 1995 (date), the foregoing Constitution of the Native Village of Nanwalek, Alaska, was submitted to the registered voters of the Native Village of Nanwalek and on May 8, 1995 (date), was duly adopted/~~rejected~~ by a vote of 14 (number) for, and 12 (number) against, and 0 (number) cast ballots found spoiled or mutilated, in an election in which at least thirty percent (30%) of the 42 (number) members registered to vote cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended.

Chairman, Election Board

Election Board Member

Election Board Member

Election Board Member

Date: May 9, 1995

# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

IN REPLY REFER TO:

JUN 23 1995

RECEIVED
JUL 11 1995

Tribal Government Services - TR
MS 2611 MIB

THROUGH: JUNEAU AREA OFFICE

RECEIVED BIA ANCHORAGE AGENCY
BRANCH OF NATIVE SERVICES
JUL 07 1995
SUPERINTENDENT'S OFFICE
BIA ANCHORAGE AGENCY

Mr. Albert Kahklen
Superintendent, Anchorage Agency
Bureau of Indian Affairs
1675 C Street
Anchorage, Alaska 99501

Dear Mr. Kahklen:

We have received the results of the election concluded on May 8, 1995, by the qualified voters of the Native Village of Nanwalek. The election was held in accordance with an order issued on January 10, 1995, which permitted the qualified voters of the Village to vote on the adoption or rejection of the proposed Constitution of the Native Village of Nanwalek.

As evidenced by the completed Certificate of Results of Election, the proposed Constitution of the Native Village of Nanwalek was duly adopted on May 8, 1995, by a vote of 14 for and 12 against in an election in which sixty-two percent (62%) of the 42 members registered and entitled to vote cast their ballots.

The Constitution of the Native Village of Nanwalek, as adopted on May 8, 1995, is hereby approved pursuant to the authority delegated to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended, and delegated to me by 230 D.M. 2.4. Please deliver the enclosed approved document to the Village.

Sincerely,

Deborah J. Maddox

Acting Deputy Commissioner of Indian Affairs

Enclosure

cc: Area Director, Juneau
Superintendent, Anchorage Agency
President, Native Village of Nanwalek, English Bay, AK 99605
Native American Rights Fund, 310 "K" Street, Suite 708, Anchorage, Ak 99501
Assistant Solicitor, Tribal Government & Alaska, MS/MIB-6456

## CERTIFICATE OF APPROVAL

I, Deborah Maddox, Acting, Deputy Commissioner of Indian Affairs, by virtue of the authority granted to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended, and delegated to me by 230 D.M. 2.4, do hereby approve the Constitution of the Native Village of Nanwalek, Alaska. This Constitution is effective as of this date: PROVIDED, That nothing in this approval shall be construed as authorizing any action under this document that would be contrary to Federal law.

Acting Deputy Commissioner of Indian Affairs

Washington, D. C.

Date: JUN 2 3 1995